
ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Approval of Voting Systems
- 2) Code Citation: 26 Ill. Adm. Code 204
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
204.10	Amend
204.20	Amend
204.30	Repealed
204.40	Amend
204.45	New Section
204.50	Amend
204.60	Amend
204.70	Amend
204.95	New Section
204.160	Repealed
204.180	Amend
- 4) Statutory Authority: Implementing Article 24C and authorized by Section 1A-8(9) and 24C-17 of the Election Code [10 ILCS 5/24C-17, 1A-8(9)].
- 5) A Complete Description of the Subjects and Issues Involved: The emergency rulemaking implements Articles 24A, 24B, 24C of the Election Code to provide a uniform procedure regarding how a voting system would be approved in the State of Illinois. The emphasis of this emergency rulemaking is upon the approval of direct recording electronic voting systems and their approval consistent with the requirements and procedures of State and federal election laws and regulations. Section 24C-4 provides in part "Direct Recording Electronic Voting Systems" may be used in elections provided that such systems are approved for use by the State Board of Elections. Once the rulemaking is in effect, direct recording electronic voting systems will be uniformly approved resulting in more efficiently run elections and most importantly, Illinois voters, and particularly the voter with disabilities, will be assured that their vote is being tabulated correctly by State approved voting systems.
- 6) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or expand a State mandate on local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
- Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708
- 217-557-9939
Ssandvoss@elections.state.il.us
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Voting system vendors
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was not certain that the amendments would be submitted for publication within the following 6 months. These amendments were in a continuous state of revision and it was thought best to withhold a regulatory agenda given the uncertainty of the amendments submission.

The full text of the Proposed Amendments is identical to the Emergency Amendments that begins on page 14070 of this *Illinois Register*:

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 204

APPROVAL OF VOTING SYSTEMS

Section	
204.10	General Provisions
204.20	Definitions
204.30	Jurisdiction Profile (Repealed)
204.40	Criteria for Approval of Voting Systems
204.45	Direct Recording Electronic Voting System
204.50	Application for Approval of Voting Systems
204.55	Provision of the Voting System Computer Code
204.60	Preliminary Determination and Review of the Proposed Voting Systems
204.70	Full Review Procedures
204.75	Review and Verification of Computer Code
204.80	Hearing to Consider Staff Review Report
204.90	Interim Approval of Voting Systems
204.95	Acceptance Testing
204.100	Final Approval of Voting Systems
204.110	Refusal to Grant Approval of Voting Systems
204.120	Withdrawal of Approval of Voting Systems
204.130	Subsequent Modification of Voting Systems
204.140	Monitoring of Voting Systems
204.150	Voting Systems in Use on the Effective Date of This Part (Repealed)
204.160	Emergency Approval of a Voting System (Repealed)
204.170	Jurisdiction of Election Authority over Voting System's Personnel
204.180	Number of Voting Booths

AUTHORITY: Implementing Section 23-15.1 and Articles 24A, 24B and 24C, and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/23-15.1, Art. 24A, Art. 24B, Art. 24C, 1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; codified at 6 Ill. Reg. 7216; amended at 9 Ill. Reg. 10733, effective July 1, 1985; amended at 11 Ill. Reg. 18655, effective October 30, 1987; amended at 15 Ill. Reg. 18144, effective December 9, 1991; amended at 23 Ill. Reg. 3943, effective March 19, 1999; amended at 29 Ill. Reg. 13734, effective August 25, 2005;

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

emergency amendment at 29 Ill. Reg. 14070, effective September 10, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15057, effective September 27, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

Section 204.10 General Provisions

- a) The State Board of Elections has the statutory responsibility to adopt rules and regulations for the approval, review and withdrawal of all voting systems and their system components. The State Board of Elections also has the responsibility to adopt rules and regulations that provide for the security, review, verification and escrowing of a voting system's Computer Code, pursuant to of the Election Code. For all elections conducted pursuant to the Election Code, no vendor, person or other entity may sell, lease or loan a voting system or system component or use any Computer Code to cast, count, register a mark and record ballots unless the voting system or system components and procedures and the Computer Code used are approved and verified by the State Board of Elections.
- b) During the evaluation process of a voting system or system component, the Board shall:
 - 1) consider public comment from voters with disabilities; and
 - 2) apply:
 - A) the requirements of the federal voting system standards promulgated by:
 - i) the Federal Election Commission;
 - ii) the Election Assistance Commission; or
 - iii) the Election Assistance Commission Standards Board; and
 - B) the testing requirements of an approved independent testing authority.

Pursuant to Sections 24A-16 and 24A-17 of the Election Code [10 ILCS 5/24A-16 and 24A-17], no voting system shall be used in this State unless approved for use by the State Board of Elections in accordance with this Part.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.20 Definitions

"Audit Trail" or "Audit Capacity" means a complete record of all manual and electronic processes that have been executed to conduct an election and the ability to reproduce each function of the process by using the original data. The record produced by an audit trail shall be a combination of the manual and electronic documentation of each step of the election process and includes, but is not limited to:

Software versions utilized and installed for the election;

Definition of ballot production;

Ballot installation;

Ballot delivery and return;

Ballot casting;

Ballot tabulation;

Error messages and corrective actions;

Log of all machine activities;

All human intervention, whether authorized or unauthorized;

All system testing, including pre-election and post-election testing, public testing and maintenance;

Equipment maintenance performed;

Security measures performed and conducted;

Production of a permanent paper record of each ballot cast that shall be available as an official record for all post-election processes; and

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

No means of identifying the voter who cast the ballot.

"Acceptance Test" means the functional testing and examination of a voting system or system component by the election authority prior to its use in an election. This test ensures that the system or system component performs according to approval and purchasing requirements.

"Anomalies and Deficiencies" means any type of interruption in the approval process that prohibits the testing of a system or system component from proceeding. This does not include staff directed interruptions.

"Applicant" is any individual, public official, public body, trust, partnership, committee, association, corporation, vendor, user or any other organization or group of persons seeking to use or market any voting system or voting system component.

"Authorized Agent" means any person selected by the Executive Director of the State Board of Elections.

"Ballot" means an electronic audio or video display or any other medium, including paper, used to record a voter's choice of candidates and preference for or against public questions.

"Ballot Image" means a corresponding representation in electronic or paper form of the marks or vote positions of a ballot that adheres to the design requirements established by the State Board of Elections.

"Ballot Malfunction" of a Direct Recording Electronic (DRE) Voting Unit is an error in the recording or printing of a permanent paper record not caused by the voter. The malfunction can include, but not be limited to, misreporting votes, unreadable paper records, paper jams, low ink, misfeeds, and power failures. A voter whose ballot could not be counted and recorded as a result of a malfunction shall be afforded the opportunity to vote on another DRE unit.

"Cancelled Ballot" for a DRE is a ballot that has not been cast, but has been generated as a permanent paper record and then changed by the voter prior to the casting of the ballot. All cancelled ballots must be identified by the system electronically and on the permanent paper record.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

"Casting a Ballot" means the process in which the voter either deposits a paper ballot or ballot sheet into a ballot box or activates a DRE system that records an image of the completed ballot, registers the proper ballot position, and signifies to the voter that the ballot has been cast.

"Central Counting" means a voting system that stores ballots in a secure place at the polling place and then transports them, via election judges, to a single or several locations for the tabulation of the ballots. The tabulation takes place on automatic tabulating equipment that generates printed results of the vote count and may transmit unofficial results to a single location by a telecommunications network.

"Computer Code" consists of, but is not limited to, ballot counting source code, table structures, modules (compiled source code), program narratives, installation instructions, operations instructions, data flows, deployment platforms, compatibility considerations for hardware, software and firmware, and any other documentation relevant to the structure and operation of the ballot counting system.

"Computer Program" or "Program" means the set of operating instructions for the automatic tabulating equipment that prepares and defines ballots, examines, records, counts, tabulates, transmits, canvasses, and prints votes recorded by a voter on a ballot or an electronic medium.

"Direct Recording Electronic Voting System" or "DRE Voting System" means a system that records votes by means of a ballot display, provided with mechanical or electronic components, that can be activated by the voter to mark a choice directly on the display in designated areas in the voting response locations; that processes data by means of a computer program; that records voting data and ballot images with no voter identification connected to the data; that produces a permanent paper record of the voter's selections; and that tabulates the stored voting data in a removable memory component at the precinct and/or at one or more counting stations.

"Mark Activation" means to record a voter's selections for contests on the ballot.

"Marking Device" or "Electronic Marking Device" means either a punching apparatus for the piercing of ballots, a pen or similar device with ink or other substance for marking a ballot, or a combination of mechanical,

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

electromechanical, or electronic equipment and software programs required to program, control, and support the equipment in which ballots are inserted. The device is used to indicate a voter's selection in a voting response area on the ballot by either piercing or printing, enabling the ballot to be tabulated by automatic tabulating equipment, which shall not independently record, store or tabulate the selections in an electronic format.

"Marking Summary" means the ballot screen on a DRE that allows the voter to review all his or her selections and actions taken on each office and proposition.

"Paper Ballot Voting Systems" means a system that records votes, counts votes and produces a tabulation of the vote count from votes cast on paper ballot cards or sheets. A ballot card or sheet means a ballot voted by either punching the ballot or by marking directly on the ballot with a marking device in the designated areas in the voting response locations. The punches or marks must be capable of being automatically examined, scanned, counted, and tabulated by an electronic means. The voter's selections may be made with any marking device approved by the State Board of Elections, as long as the device permits voters with disabilities to make all selections using the device and does not independently record, store, or tabulate the voter's selections.

"Permanent Paper Record" means a paper record upon which is printed, in human readable and distinguishable form, by electronic means, the votes cast for each candidate and the votes for or against each public question, as well as all unselected candidates or responses to questions on each ballot recorded in the voting system. Each permanent paper record shall be printed by the voting device upon activation of the marking summary by the voter and shall contain a unique, randomly assigned six to seven digit identifying number that shall correspond to the number randomly assigned by the voting system to each ballot as it is electronically recorded. This document must be printed on paper that preserves its legibility for as long as the information is required to be maintained by the election authority. All thermal paper must be properly stored within containers that facilitate the longevity of the printout.

"Precinct Count Voting System" means a voting system that tabulates all cast ballots at the same polling place in which the ballots were cast and prints the results only after the polls have closed. Some voting systems may provide for electronic storage of the vote count and may transmit the results to a central location by a telecommunications network.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

"Preliminary Review" shall consist of a full technical and procedural review of the proposed voting system component and of no more than three different and separate preaudited ballot counting tests created by the Board's staff. The purpose of the review and testing is to determine the proposed system's ability to adhere to ballot management procedures required by statute and rule and to tabulate ballots and report results as prescribed by the Election Code [10 ILCS 5].

"Redundant Count" means a recount of the ballots involved in a discovery recount either by using another type of tested automatic tabulator that has been approved by the State Board of Elections and not used in the initial recount or by a manual recount.

"Spoiled Ballot", in connection with a Direct Recording Electronic unit, is a ballot that two judges of election must spoil because the voter left the polling place without casting it. The system must identify the spoiled ballot electronically and on the permanent paper record.

"Summary Review Screen" is a screen that highlights the names of all candidates and offices the voter has selected. All non-selections by the voter shall be displayed in a contrasting color.

"Un-selected" means the process by which a voter, when activating a selection on a DRE or electronic marking device, may disengage a previously selected choice and choose to either make another selection or choose to make no selection at all prior to casting the ballot.

"User" is any individual, public official, public body, trust, partnership, committee, association, corporation or any other organization or group of persons owning, using, or contracting for the purchase or use of any voting system or voting system component involved in the election process.

"Verified Permanent Paper Record" means the permanent paper record (printed by a DRE) of the votes cast that allows the voter the ability to verify his or her ballot selections on the permanent paper record against his or her selections on the voting unit. When the ballot is cast and upon completion of the verification process, both the electronic record and the permanent paper record shall be securely stored and retained within the unit or 2 components of the unit when the ballot is cast.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

"Vendor" is any individual, trust, partnership committee, association, corporation or any other organization or group of persons contracting to supply any voting system or voting system component involved in the election process.

"Voting Defect" means a ballot that cannot be examined or counted by the automatic tabulating equipment or a ballot that has more votes cast than allowed for a specific office or proposition.

"Voting Defect Identification" means the capability of the automatic tabulating equipment to identify a ballot with a voting defect.

"Voting System" or "Electronic Voting System" means that combination of mechanical equipment or a combination of electronic equipment and software and programs used to define ballots; to cast and count votes; to report and display election results; to maintain and produce all audit trail information; to further include all associated documentation used to operate the system, maintain the system, identify the system components and their versions, test the system during its development and maintenance, and maintain records of system errors and defects; and to comply with all provisions of federal election laws and regulations in the casting, examination and tabulation of ballots and the cumulation and reporting of results by electronic means.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.30 Jurisdiction Profile (Repealed)

The Board shall develop and maintain for each election jurisdiction a jurisdiction profile that will be used to assess a voting system's capability to be utilized and maintained in the proposed election jurisdiction. The profile shall consist of information such as:

- a) Demographic characteristics that shall specify at a minimum the population size, densities, and characteristics.
- b) Jurisdiction characteristics that shall specify at a minimum the number of registered voters; geographical size; computer facilities; availability of support functions; polling place locations and facilities; number of precincts; registered voters per precinct; average voter turnout; a record of voting system performance for each election; ratio of voters to machines/devices; type of tabulation activity;

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

ballot size; complexity and configurations; number of qualified parties; number of primaries; number of elections per year; turnaround time between elections; and ballot rotation sequence difference.

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 204.40 Criteria for Approval of Voting Systems

- a) A full review of each voting system shall be conducted to ensure that no voting system is shall be approved unless it fulfills the following requirements as set forth in SectionsSection 24A-16, 24B-16, 24C-11 and 24C-16 of the Election Code:
 - 1) *It enables a voter to vote in absolute secrecy;*
 - 2) *It enables a voter to vote a ballotticket selected in part from the nominees of one party, and in part from the nominees of any or all parties, and in part from independent candidates and in part of candidates whose names are written in by the voter;*
 - 3) *It enables a voter to vote a written or printed ballotticket of his or her own selection for any person for any office for whom he or she may desire to vote;*
 - 4) *It will reject all votes for an office or upon a proposition when the voter has cast more votes for such office or upon such proposition than he or she is entitled to cast;*
 - 5) *It will accommodate all propositions to be submitted to the voters in the form provided by law or, where no form is provided, then in brief form, not to exceed 75 words.*
- b) Any review of a voting system shall consist of an evaluation of the characteristics and procedures of the system in order to determine what set of characteristics and procedures are needed to enable the system to fulfill the requirements set forth in subsection (a), such as:
 - 1) Physical characteristics, including design, engineering, materials and ability to communicate;

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 2) Software performance, including, to the maximum extent possible, a review of application programs, audit trails of overvotes and undervotes, duplicate programs, object code, source code, support software, data integrity, media security, and multi-programming;
- 3) Ballot and voting characteristics, such as the capacity of the ballot to contain multiple configurations;
- 4) Ballot processing characteristics, including the preparation, accurate tabulation of all for both primary and general election ballots, and transportation of ballots;
- 5) Function and service characteristics, including the interaction and relationship, if any, of non-election related system functions with election related functions;
- 6) Human performance standards, such as extent of training and degree of manual dexterity needed;
- 6)7) Management standards, including setup, maintenance and security procedures;.
- 7) Accessibility voting characteristics and procedures, including curbside voting for voters with disabilities.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.45 Direct Recording Electronic Voting System

Direct Recording Electronic Voting Systems shall include, but not be limited to, the following operation functions:

- a) There shall be no time limit on any Direct Recording Electronic (DRE) ballot screen and the screen shall be displayed indefinitely until the voter interacts with the screen to achieve change.
- b) Once a voter has activated the ballot cast selection, there shall be no way for the ballot to be retrieved or adjusted unless the ballot was cast provisionally.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- c) Every ballot screen shall have a prompt that allows the voter to move to the next ballot screen or to the previous ballot screen.
- d) Except for the casting of the ballot, all actions executed by a voter on a ballot screen are reversible.
- e) All DRE voting units shall contain upon them instructions and/or directions to enable voters with disabilities to operate them without assistance.
- f) All DRE units shall have clear non-glare glass ballot screens.
- g) A public counter shall be visible to all judges of election for as long as the device is in operation at the polling place.
- h) A protective counter shall be required on tabulating systems. It shall record all testing and election ballots. The counter cannot be changed except by voting and shall be visible at all times when the device is configured for testing, maintenance and election use.
- i) The Direct Recording Electronic Voting System shall provide a means for opening the polling place and readying the equipment for the casting of ballots. These means shall incorporate either a numbered security seal, a password, or a data code recognition capability to prevent inadvertent or unauthorized actuation of the poll opening function.
- j) The Direct Recording Electronic Voting System must produce a preliminary report that details, at minimum, the following information:
 - 1) Election type;
 - 2) Date and time run;
 - 3) Firmware/software version;
 - 4) Whether the election configuration is active or inactive;
 - 5) Unit ID number;
 - 6) Precinct ID number;

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 7) Protective counter listed by unit number;
 - 8) Public counter set at zero;
 - 9) Diagnostics successfully completed;
 - 10) A zero report listing offices and candidates;
 - 11) The list must include total write-ins and total undervotes;
 - 12) Time the first printout is generated and time of every subsequent printout for an election; and
 - 13) Number of each generated printout.
- k) Each system must allow the printouts to break down the election information in the following ways:
- 1) Results;
 - 2) Summary printout by style along with the cumulative totals;
 - 3) Summary printout by styles/candidates per precinct;
 - 4) In a presidential election, statewide office results broken down by congressional, legislative and representative districts (i.e., President, U.S. Senate);
 - 5) Place on the list for judges to log in what time the polls closed;
 - 6) Time the first printout is generated;
 - 7) Number of each generated printout; and
 - 8) A summary count of all provisional ballots cast.
- l) All demonstration ballot labels, pages or cards for a direct recording electronic voting system shall not include any candidates or public questions from the

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

current elections.

- m) This list is set forth by the State Board of Elections and can be amended by further rulemaking. This procedure is designed to maintain security and accuracy of the voting system and will be adjusted accordingly with technological advances within the field.
- n) The system shall have the capability to record the date and time of normal and abnormal events and to maintain a permanent record of audit information that cannot be turned off. This information must be detailed in State Board of Elections' System Problem Code. Provisions shall be made to detect and record significant events, as defined by the State Board of Elections' System Problem Code. The system must detail the errors and shall not dispose of them by itself.
- o) The ballot information shall follow the standards put forth by the State Board of Elections' Ballot Preparation and Tabulation Guide. The information, however, may be displayed in vertical or horizontal rows or on a number of separate pages or display screens.
- p) Direct Recording Electronic Voting Systems must provide the voter with the ability to improve visibility by increasing the font while, at the same time, maintaining all of the candidates' names under the office for which the voter is voting.
- q) Direct Recording Electronic Voting Systems must also provide voters with disabilities the ability to change the screen colors to monochrome or in accordance with whichever color format will allow the voter to easily discern the ballot (as defined in Section 204.40).
- r) Write-in Verification
 - 1) All write-in votes cast will be displayed with the candidates for the offices for which they were cast.
 - 2) A summary report listing all the write-in votes shall be available.
 - 3) In a jurisdiction that is using a Direct Recording Electronic Voting System for in-person absentee voting, these absentee votes shall be counted at the central counting center.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- s) If any DRE unit used in an election becomes inoperable during the election, it shall, if possible, be repaired or another unit shall be substituted by the election authority. If all units become inoperable and no substitutes are available, paper ballots shall be used to vote. The paper ballots shall be prepared and distributed to the various precincts in the manner provided for in the Election Code. In such instance, the election authority shall supply paper ballots equal to at least 20% of the number of voters registered to vote in that precinct.
- t) Direct Recording Electronic Voting Systems units must have a device attached or built into the individual voting units that provides a permanent paper record of the voter's selections. The devices may be designed in various configurations, but in all such devices the voter shall have the ability to verify his or her ballot selections on the permanent paper ballot record with the selections made on the voting unit. Upon completion of the verification process, both the electronic record and the permanent paper record shall be stored and retained within the system when the ballot is cast.
- u) General requirements for the verified permanent paper record component:
 - 1) All electronic activity must have a corresponding and discernable permanent paper record.
 - 2) A verifiable permanent paper record must be printed and the voter must have the opportunity to verify it prior to the electronic record being cast.
 - 3) The permanent paper record copy shall be considered the official paper audit record and shall be used for the required 1% recount and for any subsequent recount.
 - 4) In the case of a difference between the electronic record and the permanent paper record, the permanent paper record shall govern, unless there is clear evidence that the permanent paper record is incomplete or unreadable as defined in the system procedures.
 - 5) Privacy: The system shall be designed to allow every voter to review and change his or her selection and to cast his or her permanent paper record privately and independently.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 6) Secrecy: The system shall be designed to ensure secrecy and to ensure that it is impossible to identify a voter with a permanent paper record copy.
- 7) Readability: The system shall be designed to clearly allow the voter to review and verify his or her permanent paper record in accordance with the rules of the State Board of Elections.
- 8) The system shall be designed to provide voters with disabilities the ability to vote privately and independently and it must be in compliance with federal and State accessibility requirements.
- 9) Language Accessibility: The system shall be designed to allow each voter to verify his or her vote on the permanent paper record in the same language in which he or she voted on the DRE unit.
- 10) Security: The system shall be designed to prevent tampering with either the permanent paper record printer or the permanent paper record copy.
- 11) The DRE system shall be able to maintain the integrity of the system's memory and the audit data during an election and for a period of at least 23 months thereafter, and be able to provide the means to create an audit trail.
- 12) Permanent Paper Record Copy
 - A) Candidates and/or Propositions: The image created by the system shall include every contest that is displayed to the voter on the DRE unit review screen.
 - B) Provisional ballots shall be clearly identified in both the paper and electronic formats.
 - C) The public and protective counter shall record provisional ballots.
 - D) The permanent paper record copy shall be retained by the election authority for the same period of time paper ballots are retained.
 - E) The system shall be capable of producing images in alternative

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

languages.

- F) The permanent paper record shall be printed in English and the language used by the voter to review and cast his or her vote.
 - G) The permanent paper record display unit shall provide adequate visual space to allow a voter to privately and independently inspect the permanent paper record. The permanent paper record shall be readable from the same position and posture used for voting on the DRE unit. The voter shall have the capability to view both the marking summary screen on the DRE unit and the permanent paper record copy in the display component simultaneously. If the permanent paper record cannot be viewed in its entirety in the display unit at one time, then the voter shall have the opportunity to verify the entire permanent paper record prior to casting the ballot.
 - H) Any non-glare protective covering of the display unit intended to be transparent shall be in such condition that it can be made transparent by ordinary cleaning of exposed surface and shall be free of fog or scratches.
 - I) The audio component shall be designed to relay the exact information printed on the permanent paper record to the voter.
- 13) Permanent Paper Record Storage Unit
- A) The unit shall be designed to prevent tampering and to ensure the secrecy of the vote so that it is not possible to determine which voter cast which permanent paper record.
 - B) The capacity of the paper record storage unit in a DRE unit must be enough to accommodate the voters using the DRE unit.
- 14) Testing: Pre-election, election, and post-election testing procedures for each DRE unit shall be recorded in the permanent paper record. Testing shall conform to federal and State testing requirements.
- 15) Post-Election: The permanent paper record shall be used in the 1% post-

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

election recount and subsequent recounts. The paper record shall be machine readable.

- v) The computer operators shall be designated by the election authority and shall be sworn in as a deputy of the election authority.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.50 Application for Approval of Voting Systems

- a) In order to obtain Board approval of a voting system, a written and signed application must be made to the Board. The application shall, at a minimum, contain the following:
 - 1) The names of the applicant, primary address, e-mail address, telephone number, any web addresses, any Illinois location addresses and phone numbers, and the names of individuals who and/or corporations that will be responsible for marketing the proposed system in Illinois. If a corporation, limited liability company (LLC) or partnership, then the names, titles, addresses, phone numbers and e-mail addresses of the corporate officers or general members.
 - 2) A complete and detailed description of the voting system or system components to be approved.
 - 3) Whether this is an application for a new system or modification of an existing approved system.
 - 4) A complete and detailed description of the nomenclature and specifications of the voting system and procedures, including, but not limited to, version numbers of all software/hardware, release numbers, operating and maintenance manuals, training or pollworkers' manuals, technical and operational manuals and specifications, and whether the software accommodates cumulative and/or rank voting.
 - 5) Documentation of tests conducted on the system to be approved by any independent testing authority, any State certifying or approving authority, and any nationally recognized testing laboratory.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 6) Documentation on whether the system to be approved has met the Voting Equipment Standards provided for in the Help America Vote Act of 2002 (42 USC 15301 et seq.).
 - 7) A complete list of states and election jurisdictions currently using the system to be approved, including their names and addresses.
 - 8) A complete list of states and election jurisdictions (including their names and addresses) where the proposed system was used but is no longer in use.
 - 9) A complete list of states and election authorities where an application for approval of the system has been made and the disposition of that application; i.e., approved, disapproved or pending.
 - 10) A description of support services provided for the proposed system.
 - 11) A complete list, including examples, of all the reports the proposed system can generate to report tabulation results, diagnostic testing for measurements of software and hardware, security, log and maintenance, any verified audit trails, verified ballots, and ballot images.
 - 12) A sample of all ballots used by the proposed system.
 - 13) Complete and current operating and maintenance manuals.
 - 14) The Computer Code as defined in Section 204.20.
 - 15) Any additional information requested by the Board.
- 1) A general description of the proposed system.
 - 2) The description, nomenclature, specifications and intended use or uses of all voting system components comprising the proposed voting system.
 - 3) A description of all contemplated and possible uses of the voting system software components.
 - 4) A description of support services provided for the proposed voting system.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 5) Applicant's primary address, telephone number and e-mail address and the names, addresses, e-mail addresses and telephone numbers of individuals and/or corporations who will be responsible for marketing the proposed voting system.
 - 6) The time period in which the applicant has actively engaged in marketing the proposed voting system.
 - 7) A complete list of election jurisdictions currently using the proposed voting system, including the size of the jurisdiction and the names and addresses of the election authorities.
 - 8) A complete list of jurisdictions currently contracting with the applicant for voting system components.
 - 9) A complete list of election jurisdictions in Illinois in which the applicant is seeking to market the proposed voting system.
 - 10) If known, a complete list of election jurisdictions in Illinois in which the applicant proposes to experimentally use the proposed voting system.
- b) The Computer Code as defined in Section 204.20 shall be submitted as part of the completed application for approval.
 - c) No vendor or user shall offer to sell, lease, loan, give or otherwise supply to any user or potential user any voting system or voting system component, and no user shall place in operation any voting system or voting system component, without first submitting to the Illinois State Board of Elections a completed the application for approval identified in subsection (a). A completed application for approval shall be submitted not less than six months prior to any election in which a voting system or support component is proposed for use.
 - cd) Failure to provide the application in accordance with subsection (b) shall result in the denial of any application or request for emergency approval of an electronic voting system that might otherwise be appropriate under Section 204.160 of this Part.
 - de) The reasonable expenses incurred, except those expenses related to escrow of

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

submitted Computer Code, by the State Board of Elections in conducting the approval process of the voting system shall be borne by the applicant for approval of the voting system or system component. Expenses for which the applicant shall be liable shall be limited to goods and materials necessary for the review process, necessary travel in accord with State travel regulations (80 Ill. Adm. Code 2800), use of contract consultants, and the actual cost of any computer support. Expenses shall be documented and submitted to the applicant at the end of full review prior to interim approval as defined in Section 204.90, and within 10 days after the completion of any testing conducted between interim and final approval as defined in Section 204.100. Payment of the costs shall be made by the applicant within 10 days after receipt. The Board shall not grant interim approval or full approval of a voting system or system component until the applicant has fully satisfied the monetary obligation incurred by the Board during the review process. Reasonable expenses are those customary and usual charges for goods and services of value and quality acceptable in the computer science industry. Board staff shall determine in the first instance what expenses are reasonable, and an applicant who believes that the staff determination is incorrect may ask for review of the determination by the State Board of Elections.

- e) A review of the application will not begin until all requested material that is to accompany the application and all the Computer Codes with documentation, as defined by Section 204.20 and prescribed by Section 204.55, have been received. The beginning date of the application review shall be the date of receipt of the completed application. The applicant shall receive a written notice of the application date within 7 business days after receipt of the application.
- f) An affidavit prescribed by the State Board of Elections shall be executed by the applicant acknowledging that the applicant will only sell, lease, loan, give or otherwise supply to any user or place in operation only voting systems, system components or system Computer Code that has been approved for use by the State Board of Elections.
- g) All materials and equipment submitted to the State Board of Elections pursuant to the approval process will be retained by the Board until:
 - 1) An applicant files written notification with the Board that it is withdrawing its application for approval of a voting system and requests the materials submitted with the application to be returned; or

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 2) A minimum of 24 months after the last use of a system in the State, and upon notification by the system vendor and all end users that the system will no longer be utilized. At that time, the Board may withdraw approval of the system and return the materials and equipment, unless they were used in subsequent modifications of the system.
- h) The applicant shall provide all necessary support of the materials and equipment during the time the system is used in the State.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.60 Preliminary Determination and Review of the Proposed Voting Systems

The review of a voting system application will include a preliminary review and a full review.

- a) Upon the Board's receipt of a completed application requesting approval of a voting system, a review preliminary determination shall be made as to whether the proposed voting system has the capability of fulfilling the criteria prescribed in Section 204.40 of this Part.
 - b) If the review preliminary determination indicates that the proposed voting system appears to fulfill the criteria prescribed in Section 204.40 of this Part, then the staff of the Board and/or authorized agents will continue to conduct an examination a preliminary review of the proposed voting system.
 - c) The preliminary review of the proposed voting system will consist of determining the capability of the proposed system to meet all requirements of the Election Code and State Board of Elections rules and regulations, and when applicable, the review will consider, but will not necessarily be limited to: Insofar as practical, the preliminary review of the proposed voting system will consist of the creation of a pre-audited ballot counting test by the Board's staff that will be delivered to the applicant. The applicant shall tabulate the ballots contained within the pre-audited ballot counting test and generate, at a minimum, individual precinct result total reports and cumulative result total reports which, along with the pre-audited ballot counting test, will be delivered to the Board. The Board's staff shall review the reports submitted by the applicant and submit a preliminary review findings and conclusions report to the Board and the applicant.
- 1) creation of a pre-audited ballot counting functional test of not less than 10

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

precincts;

- 2) ballot screen design and requirements, formats and specifications, secrecy, overvoting, undervoting and defect identification;
 - 3) ballot card or sheet printing requirements;
 - 4) formats and specifications of security requirements for hardware and software, along with actual security procedures;
 - 5) Computer Code; and
 - 6) Screen images and ballot directions.
- d) If the preliminary review report indicates that the proposed voting system appears to demonstrate the capability to fulfill the criteria prescribed in Section 204.40, the staff of the Board and/or authorized agents shall continue with the full review process to demonstrate satisfactory performance of the proposed voting system as prescribed in Section 204.70. A system fails preliminary review when it fails to fulfill the criteria of Section 204.40 by the conclusion of the third ballot counting test.
- e) A system fails preliminary review when it fails to fulfill the criteria of Section 204.40 and/or to conform with the requirements of the Election Code and/or State Board of Elections rules and regulations, or has encountered three anomalies and deficiencies. When anomalies and deficiencies occur, a written notice and description of the anomaly and deficiency shall be given to the applicant with a revised test schedule that allows at least 30 days for the applicant to correct the error. The applicant can request additional time, but any anomaly or deficiency that requires the applicant to resubmit the system or system component to a national testing authority will constitute failure to fulfill the criteria of Section 204.40.
- f) If the preliminary review report indicates that the proposed system fails to demonstrate the capability to fulfill the criteria prescribed in Section 204.40, the staff of the Board and/or authorized agents shall cease any further review of the system. Any application for system approval offered by an applicant who has previously failed during the preliminary review or full review process shall not be considered by staff for a period of one year from the date of determination by the

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

Board.

- g) Any applicant may withdraw an application for approval upon written notice at any time during the approval process up to one business day before the Board meets to consider the application. The Board, upon application withdrawal, shall return to the applicant, within 21 business days, any Computer Code and document submitted pursuant to Section 204.55 of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.70 Full Review Procedures

- a) The Board, utilizing staff shall and/or utilizing agents, may, after giving written notice, make an on-site inspection to review manufacturing, production and product testing of hardware and software equipment and to interview personnel involved in the development and manufacturing of any of the approved or the proposed voting system system.
- b) Board staff shall prepare and perform a test of the proposed voting system to determine whether the system fulfills the criteria and requirements of Section 204.40. The test shall be conducted under conditions that, to the maximum extent possible, simulate election-day conditions.
- c) Board staff shall prepare a profile showing:
- 1) The past performance experience and reliability of the proposed voting system as demonstrated in other election jurisdictions;
 - 2) The reputation of the vendor's reliability in performing service and maintenance agreements.
- d) Board staff shall prepare and submit a report to the Board stating the findings and conclusions of their review of the proposed voting system. A copy of the report shall be transmitted to the applicant.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 204.95 Acceptance Testing

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- a) Whenever any election jurisdiction acquires a new or used voting system or system component or system Computer Code, or modifies an existing voting system previously approved by the Board, the election jurisdiction shall perform an acceptance test on the voting system, system component and system Computer Code before the voting system, system component or system Computer Code is used to cast or count votes at an election.
- b) The election supply vendors must provide all current manuals and training necessary for proper operation of the voting system, system component or system Computer Code.
- c) The election jurisdiction shall perform a series of tests of the system's function and the system's programming. This test shall include, but is not limited to, a pre-audited ballot test (comprised of ballot generation, precinct security codes, ballot types, split precincts, multiple candidates, cumulative reports, precinct reports, canvass reports, press reports, log reports, etc., in all report formats) and any other tests the election authority finds necessary. Upon request, assistance from the State Board of Election may be provided.
- d) A report of the acceptance test shall be submitted to the Board upon successful completion of an errorless test. The report shall be in a form prescribed by the Board, shall be executed by the election supply vendors, and shall include, but not be limited to, system components tested and serial numbers, Computer Codes tested and version numbers, number of pre-audited ballots used in the test, a list of any faulty components or system code that needed correction or replacement, and, if the acceptance test was successful, the dates on which the successful test was conducted.
- e) If the test uncovers any improper or faulty voting system components or system Computer Code, the vendors must make corrections to the components or Computer Code within 30 days, or as otherwise provided by contract.
- f) The State Board of Elections shall receive the report of the acceptance testing to ensure the voting system, system component or system Computer Code has been approved. If the review concludes that the voting system, system component or system Computer Code involved in the acceptance testing is unapproved, then the voting system, system component or system Computer Code cannot be used to cast or count votes at an election, and the vendor or user will have to apply for approval of the voting system, system component or system Computer Code.

ILLINOIS REGISTER

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 204.160 Emergency Approval of a Voting System (Repealed)

- a) The Board shall have the authority, upon written request, to grant emergency approval of a voting system limited to one election. The emergency approval shall specify, at a minimum, the following:
 - 1) The reason for the emergency approval;
 - 2) The description of the voting system prepared for use in the emergency; and
 - 3) The specific election jurisdiction and specific election in that the voting system will be employed.
- b) The Board shall approve the application for emergency approval if the following conditions are met:
 - 1) Error-free completion of a staff-prepared ballot tabulation test that demonstrates the system fulfills the provisions of Section 204.40(a);
 - 2) Demonstration that an approved system is not available for use in the election in question; and
 - 3) Demonstration that the requirements specified in Section 204.100(c)(1), (2), and (3) have, to the maximum extent possible, been complied with in connection with this emergency approval.

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 204.180 Number of Voting Booths

The number of voting booths or stations required shall be determined by the Board. The Board will determine the required number when it approves a voting system or system component remain under the jurisdiction of the local election authority.

(Source: Amended at 29 Ill. Reg. _____, effective _____)